

**STATE**

**NEW JERSEY CULTURAL TRUST**

**New Jersey Cultural Trust Rules**

**Proposed Readoption with Amendments: N.J.A.C. 15:27**

Authorized By: New Jersey Cultural Trust Board of Trustees, Thomas Carroll, Chairman.

Authority: N.J.S.A. 52:16A-72 et seq., specifically 52:16A-77.a.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2014-147.

Submit written comments by November 14, 2014, to:

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New Jersey Cultural Trust

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The agency proposal follows:

**Summary**

Pursuant to P.L. 2000, c. 76 (N.J.S.A. 52:16A-72 et seq.) the New Jersey Cultural Trust (Cultural Trust) was established to build a permanent, stable, and additional source of funding to support private, non-profit arts, history, and humanities organizations. The Trust's purpose is to

help build endowments, create institutional stability, and fund capital projects of qualified cultural organizations in New Jersey.

The Cultural Trust shall meet this purpose by allocating funds from the New Jersey Cultural Trust Fund (Fund) in accordance to the purposes and procedures established by the New Jersey Cultural Trust Act (the Act), N.J.S.A. 52:16A-72 et seq.

The New Jersey Cultural Trust promulgated rules for the New Jersey Cultural Trust Fund Program in September 2001, for the designation of qualified organizations, the certification of donations to the endowments of qualified organizations, the distribution of matching funds to the endowments of eligible organizations, and the award of grants for endowments, capital facilities projects, and financial and institutional stabilization in accord with the New Jersey Cultural Trust Act.

The Cultural Trust proposes to readopt N.J.A.C. 15:27 with amendments. This chapter is scheduled to expire on August 15, 2014. In accordance with N.J.S.A. 52:14B-5.1.c(2), the filing of this notice of proposal with the Office of Administrative Law extends the expiration date 180 days to February 11, 2015.

This chapter sets forth the rules of the Cultural Trust for the New Jersey Cultural Trust Fund Program for the award of grants for endowments, capital facilities projects, and financial and institutional stabilization in accordance with the New Jersey Cultural Trust Act, N.J.S.A. 52:16A-72 et seq. Subchapter 1 provides the organizational information about the Cultural Trust. Subchapter 2 establishes the requirements for the New Jersey Cultural Trust Fund Grant Program.

The Cultural Trust proposes to amend N.J.A.C. 15:27-1.1(b), which currently identifies a named individual as Board Secretary and provides the mailing address for the Cultural Trust.

The Cultural Trust proposes to delete the individual's name so that mail is directed simply to "Board Secretary." The proposed amendment also updates the Cultural Trust's mailing address and adds the Cultural Trust's website and an email address.

The Cultural Trust proposes to amend N.J.A.C. 15:27-2.6(a)6, which currently requires that organizations with an annual budget of at least \$100,000 and/or endowment holdings greater than \$100,000 must submit an independent certified audit of financial statements for the last two completed fiscal years. The proposed amendment would delete this requirement and instead require that organizations with an annual budget in excess of \$100,000 but under \$500,000 must submit independent financial reviews for their past two completed fiscal years. The proposed amendment would further require that organizations with annual total gross income of \$500,000 or more must provide certified audits for their past two completed fiscal years, or the same financial documentation as is required by the New Jersey Division of Consumer Affairs Charities Registration Section for annual reporting for the past two completed fiscal years.

The proposed amendment to N.J.A.C. 15:27-2.12(b)1 further defines the organizations eligible to be included in the list of projects recommended for capital facilities grants by the New Jersey Historic Trust by replacing "qualifying history and humanities organizations" with "qualifying organizations with stewardship responsibility for properties listed or deemed eligible for listing on the State Register of Historic Places." This amendment makes it clear that a qualified organization need not have a history or humanities mission to be eligible for capital facilities projects grants, as long as their proposed project is intended for an eligible historic structure.

The Cultural Trust proposes to readopt the balance of the rules without amendments.

The Trust has reviewed the rules and has determined that they continue to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. The rules proposed to be readopted with amendments thus will continue to provide the regulatory framework to enable the Cultural Trust to function at its current status.

As the Trust has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The rules proposed for readoption with amendments will have a positive social impact by continuing the Cultural Trust program for the award of grants for endowments, capital facilities projects, and financial and institutional stabilization for qualifying organizations. This program provides a stable source of funding to assist in the improvement, expansion, stability, and long-term health of arts, history, and humanities organizations in New Jersey. Arts, history, and humanities contribute to the quality of life in New Jersey, to the health and vitality of its cities, towns, and neighborhoods, to sound education, to the teaching of tolerance and understanding, and to the celebration of the State's rich cultural diversity and identity. All organizations funded through the Cultural Trust must demonstrate public benefit through a mission devoted to an advancement of arts, history, or the humanities. The funding awarded from the Fund will continue to ensure stronger, financially stable arts, history, and humanities organizations, and improved facilities for arts, history, and humanities organizations, for decades to come.

## **Economic Impact**

The rules proposed for readoption with amendments will continue to facilitate the distribution of moneys from the Fund and provide a means by which moneys are made available for endowments and for capital facilities projects and institutional and financial stabilization projects for qualified organizations. The funds provided to organizations play an important role in improving the economic stability of the organizations and the communities they serve, and in generating jobs in the non-profit sector. The organizations receiving funds from the Cultural Trust may incur some administrative costs during the application process and when complying with post-funding requirements. However, certain factors will affect the costs incurred. Some of these factors are: number of staff at the organization awarded the funding, availability of qualified volunteers, and the size and complexity of the project.

Moreover, the proposed amendments will modernize the chapter by making the public more aware of the Cultural Trust's online presence, not to mention reducing unnecessary red tape and removing hidden costs from regulatory compliance. The alignment with Charities Registration audit requirements removes a cost from smaller non-profit organizations in that the audit requirements are eased for those organization having an annual budget less than \$500,000.

### **Federal Standards Statement**

A Federal standards analysis is not required because the rules proposed for readoption with amendments are not subject to any Federal standards or requirements.

### **Jobs Impact**

The rules proposed for readoption with amendments have the potential to ensure the continuation of jobs within the arts, history, and humanities fields and to create new jobs in the institutions that develop their endowments and receive funds from the Cultural Trust. Additionally, there is the potential for a continued increase in education and commercial art, cultural tourism, and collateral businesses serving tourists.

### **Agriculture Industry Impact**

Pursuant to P.L. 1998, c.48 and N.J.S.A. 52:14B-1 et seq., the Cultural Trust has evaluated the Cultural Trust Fund Grant Program in order to determine the nature and extent of the impact on the agriculture industry. The Cultural Trust has determined the rules proposed for readoption with amendments will have no impact on the agriculture industry.

### **Regulatory Flexibility Analysis**

Qualifying organizations, some of which may be small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., must follow the application procedurea and comply with the conditions imposed by the Cultural Trust. The administrative costs of applying for, and complying with the conditions of, the funding allocation are minor and are minimized by the Cultural Trust staff being available for

technical assistance in the application process. Additionally, organizations will be able to receive technical assistance from the staffs of the New Jersey State Council on the Arts, the New Jersey Historical Commission, and the New Jersey Historic Trust for the parts of the program they manage.

Organizations must keep financial records to comply with Cultural Trust requirements. Most organizations receiving funds from the Cultural Trust will need the services of a professional accountant to prepare a financial audit. This cost, which will vary depending on the audit's complexity and the professional fees, is required in order for the Cultural Trust to establish a uniform basis for ensuring the integrity of the use of State funds. Among the other factors that will affect total cost of compliance are the following: number of staff at the institution awarded the funding, the availability of qualified volunteers, and the size and complexity of the project.

Finally, it is important to note that one of the proposed amendments aim to reduce this cost for some applicants with smaller operating budgets by linking the audit requirements to those applied by the New Jersey Division of Consumer Affairs Charities Registration Section. Specifically, the amendment would require those organizations with annual total gross income of more than \$100,000 but less than \$500,000 to submit independent financial reviews for their past two fiscal years, as opposed to independent certified audits of financial statements. Not only does that amendment comport with the audit requirements of the Division of Consumer Affairs, but it also reduces costs to the regulated community in a common sense manner.

## **Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to administering the New Jersey Cultural Trust Fund Grant Program.

### **Smart Growth Development Impact Analysis**

The rule proposed for readoption with amendments will not have an impact on the achievement of smart growth or housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules pertain to administering the New Jersey Cultural Trust Fund Grant Program.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C 15:27.

**Full text** of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### SUBCHAPTER 1. ORGANIZATIONAL RULE

##### 15:27-1.1 Organization; information contact; petition for rulemaking

(a) (No change.)

(b) To contact the New Jersey Cultural Trust, or to submit a petition for rulemaking pursuant to N.J.A.C. 1:30-4, write:

[Carol Cronheim,] Board Secretary

New Jersey Cultural Trust

PO Box [529] **305**

Trenton, NJ 08625-[0529]**0305**

**or**

**[Feedback@sos.state.nj.us](mailto:Feedback@sos.state.nj.us)**

**(c) More information on the New Jersey Cultural Trust can be found at**

**[www.culturaltrust.nj.gov](http://www.culturaltrust.nj.gov)**.

## SUBCHAPTER 2. NEW JERSEY CULTURAL TRUST FUND GRANT PROGRAM

### 15:27-2.6 Requirements for designation as a “qualified organization”

(a) In applying for designation as a qualified organization, the following are required:

1.-5. (No change.)

6. [An organization with an annual budget of at least \$100,000 and/or endowment holding greater than \$100,000 must submit an independent certified audit of financial statements for the last two completed fiscal years.] An organization with an annual budget under \$100,000 and no endowment or no endowment holding in excess of \$100,000 must submit copies of their past two annual budgets as approved by the organization's board of directors and their tax returns for the past two fiscal years, if they are required to file such returns. **Organizations with an annual budget in excess of \$100,000, but under \$500,000, must submit independent financial reviews for their past two completed fiscal years. Organizations with annual total gross income of \$500,000 or more must provide certified audits for their past two completed fiscal years, or the same financial documentation as is required by the New**

**Jersey Division of Consumer Affairs Charities Registration Section for annual reporting  
for the past two completed fiscal years.**

(b)-(c) (No change.)

15:27-2.12 Procedure for distribution of income from the Trust Fund

(a) (No change.)

(b) Interest that is allocated for distribution shall be awarded to projects submitted to the Board by the Council, the Historic Trust, and the Commission.

1. The project list submitted by the Historic Trust shall be composed of grants for capital facilities projects for qualifying [history and humanities] organizations **with stewardship responsibility for properties listed or deemed eligible for listing on the State Register of Historic Places.**

2.-3. (No change.)

(c)-(f) (No change.)